



U.S. Department of Justice

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Southern District of New York*

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April 21, 2023

VIA ECF

Hon. Jesse M. Furman
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Nathaniel Chastain*, 22 Cr. 305 (JMF)

Judge Furman:

The Government writes pursuant to the Court's April 17, 2023, order regarding the filing of revised proposed jury instructions concerning "confidential business information." (Dkt. 88.) In light of the Court's ruling that "the Government *may* prove that the information at issue had inherent value to OpenSea," but is not "*required* to do so," the Government respectfully submits that the Court should give the jury the instruction on the meaning of "confidential business information" set forth on page 7 of the Government's proposed instructions. That instruction is drawn from the instruction of the Honorable Denise L. Cote in *United States v. Lavidas*, 19 Cr. 716 (Jan. 14, 2020), and from the Second Circuit's discussion of an appropriate discussion in *United States v. Mahaffy*, 693 F.3d 113, 134-35 (2d Cir. 2012). Those instructions are consistent with the Court's ruling concerning "confidential business information," and therefore the Government is not submitting a revised wire fraud instruction.

The Government is submitting revised proposed jury instructions concerning the term "proceeds" in the money laundering instruction. The revision is appropriate because the prior language the Government submitted was inconsistent with 18 U.S.C. § 1956(c)(9) and *United States v. Quinones*, 635 F.3d 590 (2d Cir. 2011).

In advance of the charging conference, depending on language in the defendant's revised proposed jury instructions, the Government anticipates submitting a letter brief regarding certain objections to the instructions proposed by the defense, including the instruction on willfulness in Count One and concealment in Count Two.

Very truly yours,

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